



Greater Hartford Legal Aid

**TESTIMONY OF GREG BASS, LITIGATION DIRECTOR
GREATER HARTFORD LEGAL AID**

**BEFORE THE HUMAN SERVICES COMMITTEE
MARCH 3, 2009**

S.B. No. 843, "An Act Implementing the Governor's Budget Recommendations Concerning Social Services"

Members of the Committee, my name is Greg Bass. I am the Litigation Director with Greater Hartford Legal Aid, a non-profit law firm that provides legal assistance to low-income clients in the Greater Hartford area.

I appreciate the opportunity to testify before the Committee, on behalf of my clients. I **URGE DELETION OF SECTION 67 OF S.B. No. 843** which currently states:

Sec. 67. (NEW) (*Effective from passage*) All nonemergency dental services provided under the Department of Social Services' dental programs shall be subject to prior authorization. The commissioner shall periodically, but not less than quarterly, review payments for emergency dental services for appropriateness of payment. The commissioner may recoup payments for services that are determined not to be for an emergency condition. For the purposes of this section, "emergency condition" means a dental condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate dental attention to result in placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, cause serious impairment to body functions or cause serious dysfunction of any body organ or part.

I am counsel of record for the plaintiff class in *Carr v. Wilson-Coker*, which litigated access to dental care for child recipients of HUSKY A. On March 31, 2008, the Appropriations, Human Services, Public Health, and Judiciary Committees, which constituted the committees of cognizance, held a joint public hearing to review the Settlement Agreement. The Appropriations Committee voted unanimously that day in favor of approval of the agreement. Without further action of the General Assembly, the settlement agreement was deemed approved by state law. Many members of this Committee played pivotal roles in gaining this legislative approval. Following this legislative action, the *Carr* settlement gained final approval on August 26, 2008 by order of Judge Alfred V. Covello, United States District Court for the District of Connecticut.

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The centerpiece of the *Carr* settlement is the State's agreement to spend an additional \$20 million dollars annually over four years, to increase the Medicaid payment schedule for dentists, making it more financially feasible for them to participate in the program. This is expected to significantly increase the pool of available dentists and in turn dramatically increase access to dental care for persons with HUSKY insurance. Effective September 1, 2008, the state also agreed to "carve out" HUSKY A dental services from Medicaid managed care and administer the dental services program directly. Another highlight of the settlement is the agreement of DSS to conduct an aggressive program of provider recruitment designed to encourage dentists, dental hygienists, clinics, and hospitals that provide dental services to become Medicaid program providers.

In short, the *Carr* settlement represents a milestone in Connecticut for access to dental care for HUSKY A children. The language of section 67 of S.B. No. 847 threatens to undermine this achievement. It should be deleted from the bill.

The early numbers are encouraging. Only about 175 dental providers at most participated in Medicaid at any one time in prior years, out of about 3000 licensed dental providers statewide. The numbers reported at the first meeting of the Dental Policy Advisory Committee established by the settlement indicate, as of the end of January 2009, that 743 were participating.

The *Carr* settlement establishes a new payment and service delivery structure for HUSKY A dental services for children, as a means of increasing access to oral health care for this needy population. These are designed to *encourage* the dental community to become participating HUSKY A providers. **The preauthorization language of this bill will do just the opposite, by providing a distinct disincentive to participation, at a critical juncture in the implementation of the *Carr* settlement.**

HUSKY A children have the most severe dental problems among kids in Connecticut. Getting their dental problems assessed is often just the starting point. Under the language of section 67, the dentist will likely have to get preauthorization from DSS, just to secure payment approval for X-rays for any "nonemergency" treatment of the child. This means a second visit for the child, to take the X-rays. If they reveal dental hygiene issues, the dentist must again secure prior authorization to address them. This means yet another visit, to finally take care of the problems, after additional preauthorization is obtained.

This will cause three major problems – (1) a cumbersome system of preauthorization and ultimate payment for the dental provider, which acts as a clear disincentive to participate in HUSKY in the first place; (2) a resulting loss of dental providers to the HUSKY program and a corresponding loss of access to children seeking oral health care; and (3) even for those dentists willing to comply with cumbersome preauthorization procedures, a delay in getting oral health care for the children who are their patients.

The nonemergency dental preauthorization requirement threatens to undo the progress made to date under the *Carr* settlement, and should be deleted from any version of a bill to be voted out of this Committee.